

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 1832 – SB 2258

March 1, 2018

SUMMARY OF ORIGINAL BILL: Provides for the Director of the Tennessee Bureau of Investigation (TBI) be consulted in the annual revisions and republishing of the schedules of controlled substances. Updates the controlled substances in schedules I-V. Authorizes sentence reduction credits for offenders who successfully complete intensive substance abuse programs.

FISCAL IMPACT OF ORIGINAL BILL:

Decrease State Expenditures – Net Impact – \$2,366,000 Incarceration*

The Governor's proposed budget for FY18-19, on pages A-37, recognizes recurring expenditures to the General Fund in the amount of \$286,300 and a recurring decrease in state expenditures in the amount of \$2,665,400 to the General Fund.

SUMMARY OF AMENDMENT (014040): Deletes sections 10 and 11 from the bill, relating to Kratom.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumptions for the bill as amended:

Changes in drug schedules

- Tennessee Code Annotated § 39-17-403 establishes guidelines in which the Commissioner of the Department of Mental Health and Substance Abuse (MHSAS) in agreement with the Commissioner of the Department of Health (DOH) annually schedules dangerous controlled substances.
- The proposed legislation requires the Commissioners of MHSAS and DOH to consult the Director of the TBI in the annual preparation and publishing of the schedules of controlled substances.
- The proposed legislation adds controlled substances to schedules I-V, including U-47700 to schedule I. Further, the proposed legislation provides a more detailed list of fentanyl derivatives and analogues under Schedule I.

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- Tennessee Code Annotated § 39-17-417 prohibits the manufacture, delivery, selling, or possession of a controlled substance. Manufacturing, delivering, selling, or possessing a schedule I controlled substance is a class B felony.
- The proposed legislation will result in three new class B felony admissions to the Department of Correction (DOC).
- The average time served for possession of a schedule I controlled substance is 4.17 years.
- According to the DOC, the average operating cost per offender per day for calendar year 2018 is \$71.08.
- Population growth and recidivism will not impact these admissions.
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on three offenders serving 4.17 years (1,523.09 days) at a cost of \$108,261 (\$71.08 x 1,523.09 days) per offender. The cost for three offenders is \$324,783 (\$108,261 x 3).

Sentence Reduction Credits

- Tennessee Code Annotated § 41-21-236 provides inmates opportunities to earn sentence reduction credits upon exhibiting satisfactory performances within an established program.
- The proposed legislation provides for a 60-day sentence reduction credit to qualifying offenders who successfully complete an evidence-based, intensive residential substance abuse treatment of a minimum of nine months.
- Statistics from the DOC show an annual average of 900 offenders in DOC custody over the past three years have successfully completed therapeutic community programs for substance abuse disorders.
- Under the proposed legislation, these 900 offenders will be released from DOC custody, therefore reducing the bed demand for felons by 900.
- The reduction of total bed demand as a result of the sentencing credits provided by the proposed legislation can be recognized as a reduction of beds needed by the DOC from the local jail; therefore a decrease the number of offenders in local jails.
- According to the DOC, the average operating cost per offender per day to be housed in a local jail for calendar year 2018 is \$49.83.
- The reduction in bed demand for offenders in local jails will result in a decrease in state expenditures of \$2,690,820 (900 inmates x 60 days x \$49.83).
- The vast majority of these offenses are being charged regardless of the drug class, therefore there would be no significant impact to the caseloads of the courts, public defenders, and district attorneys can be accommodated within their existing resources.

Net Impact of Incarceration Costs

- The proposed legislation will result in a net decrease in state incarceration costs of \$2,366,037 (\$2,690,820 decrease – \$324,783 increase).

**Tennessee Code Annotated § 9-4-210 requires an appropriation from recurring revenues for the estimated operation cost of any law enacted after July 1, 1986 that results in a net increase in periods of imprisonment in state facilities. The amount appropriated shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in dark ink that reads "Krista M. Lee". The signature is written in a cursive, flowing style.

Krista M. Lee, Executive Director

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